

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,)
)
Plaintiff,) Civil Action No.
) 04 CV 11880 WGY
)
v.)
)
ATLAS TACK CORPORATION and)
M. LEONARD LEWIS,)
)
Defendants.)
)
)

AFFIDAVIT OF DONALD W. STEVER, ESQ.

Donald W. Stever, being duly sworn, deposes and says:

1. I am a member of the law firm Kirkpatrick & Lockhart LLP, counsel for the Defendant and Counterclaim Plaintiff, Atlas Tack Corporation (“Atlas Tack”) in the above-captioned matter. I submit this affidavit in support of Atlas Tack’s Memorandum of Law in Opposition to Plaintiff’s Motion for an Order in Aid of Immediate Access.
2. Attached as “Exhibit 1” is a true and correct copy of Ortiz, David J., “\$2 million slated for Atlas Tack cleanup,” The Standard Times (May 22, 2004).
3. Attached as “Exhibit 2” is true and complete copy of the “Save the Date” notification.

4. Attached as "Exhibit 3" a true and complete copy of the Agenda of the June 24, 2004 Meeting presented at the June 24, 2004 Town Hall meeting.
5. Attached as "Exhibit 4" a true and complete copy of the Atlas Tack Superfund Site Activity Update (June 2004) prepared by EPA and presented at the June 24, 2004 Town Hall meeting.
6. Attached as "Exhibit 5" is a true and correct copy of the Expert Report of Richard J. Hughto, Ph.D., P.E. (dated June 18, 2004).
7. Attached as "Exhibit 6" is a true and correct copy of the Remedial Investigation Report, prepared by Roy. F. Weston Inc. (1995).
8. Attached as "Exhibit 7" is a true and correct copy of the Expert Report of Charles A. Menzie, Ph.D. (dated June 14, 2004).
9. Attached as "Exhibit 8" is a true and correct copy of the Updated Human Health Risk Assessment and Development of Risk-Based Cleanup Levels ("UHHRA"), prepared by Roy F. Weston, Inc. (April 1998).
10. Attached as "Exhibit 9" is a true and correct copy of the Draft Feasibility Study ("DFS"), prepared by Roy F. Weston, Inc. (dated April 20, 1998).

11. Attached as "Exhibit 10" is a true and correct copy of the March 2000 United States Environmental Protection Agency ("EPA") Record of Decision ("ROD") on the Atlas Tack Site ("Site").

12. Attached as "Exhibit 11" is a true and correct copy of "Spraying of Trees to Start Monday," The Fairhaven Star (dated May 25, 1939).

13. Attached as "Exhibit 12" is a true and correct copy of "Elm Blight Strikes Local Shade Trees," The Fairhaven Star (dated August 22, 1940).

14. Attached as "Exhibit 13" is a true and correct copy of the Inspection Report by C. Boutillier, Civil Engineer, Operations Division, United States Army Corps of Engineers.

15. Attached as "Exhibit 14" is a true and correct copy of a Letter from Kenneth M. Wood, Jr., Chairman of Town of Fairhaven Selectmen to Chief Arthur C. Paquette (dated 1974).

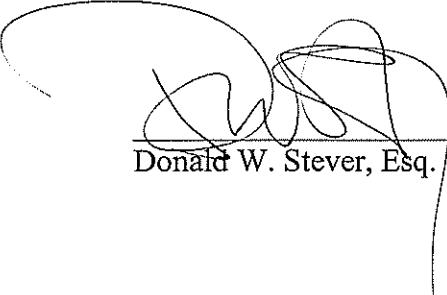
16. Attached as "Exhibit 15" is a true and correct copy of Woodwell, George M., "Eradicating Terrorism," (dated October 19, 2001).

17. Attached as "Exhibit 16" is a true and correct copy of DDT Sprayed Throughout the Cape in the Late 1940s," Cape Cod Breast Cancer and Environmental Study Final Report, Silent Spring Institute (December 1997).

18. Attached as "Exhibit 17" is a true and correct copy of, "Suggest Mosquito Control Measures," The Fairhaven Star (dated August 25, 1960).
19. Attached as "Exhibit 18" is an unsigned deposition transcript of the deposition of Charles A. Menzie, Ph.D., taken on Thursday, August 19, 2004. This unsigned transcript is the only transcript available to Atlas Tack at this time. I certify, based on my attendance at the deposition, that it is an accurate representation of the testimony. When a signed transcript is available we will provide it to the Court.
20. Attached as "Exhibit 19" is a true and correct copy of Edmonds, John S. and Kevin A. Francesconi, "Arsenic in Seafoods: Human Health Aspects and Regulations," Marine Pollution Bulletin, Vol. 26, p. 665-674 (1993).
21. Attached as "Exhibit 20" is a true and correct copy of Donohue, Joyce M. and Charles O. Abernathy, "Exposure to Inorganic Arsenic from Fish and Shellfish," Arsenic Exposure and Health Effects (1999).
22. Attached as "Exhibit 21" is a true and correct copy of Neff, Jerry M., "Ecotoxicology of Arsenic in the Marine Environment," Environmental Toxicology and Chemistry, Vol. 16, pp. 917-927 (1997).
23. Attached as "Exhibit 22" is a true and correct copy of "Arsenic Hazards to Fish,

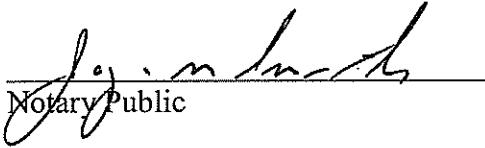
Wildlife, and Invertebrates: A Synoptic Review," U.S. Department of the Interior
(January 1988).

I certify that the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.



Donald W. Stever, Esq.

Sworn to before me on this
14 day of September, 2004.



Notary Public

JOYCE M. SMITH
Notary Public, State of New York
No. 01SM6091035
Qualified in Suffolk County
Commission Expires April 21, 2007